

Application Serial No. 09/877,341

Request To Withdraw the Holding of Abandonment dated October 22, 2003

Response to Notice of Abandonment dated October 16, 2003

Applicant respectfully requests that the Notice of Abandonment be withdrawn and the application continue to be examined in light of Applicant's April 3, 2003 reply.

#### REMARKS

Applicant received the Notice of Abandonment on October 21, 2003, shown in Exhibit 1, stating that the present application was deemed abandoned due to Applicant's alleged failure to reply to an Office Action mailed on January 9, 2003. However, on April 3, 2003, Applicant filed with the Office an Amendment in response to the January 9, 2003 Office Action and a Fifth Supplemental Information Disclosure Statement Pursuant to 37 C.F.R. §§ 1.97 and 1.98, with a Form 1449A and a copy of the reference cited therein, all having a Certificate of Mailing pursuant to 37 C.F.R. § 1.8. Attached hereto as Exhibit 2 is a copy of each of the papers filed by Applicant on April 3, 2003. As indicated by the Return Postcard located at the last page of Exhibit 2, the Office received all of the papers identified in Exhibit 2 on April 8, 2003. Because Applicant within 3 months of the mailing of the Office Action timely filed a reply to the Office Action mailed January 9, 2003, Applicant respectfully submits that the issuance of the Notice of Abandonment was in error.

Further, because Applicant mailed the papers in Exhibit 2 with a Certificate of Mailing pursuant to 37 C.F.R. § 1.8, and the Office received all of the papers on April 8, 2003, as evidenced by the Office's postmark, Applicant respectfully submits that the issuance of the Notice of Abandonment was not due to the fault of Applicant. As such, Applicant submits that no fees are due for the filing of this Request. However, in the event that fees are due, the Commissioner is authorized to charge any additional fees which may be required (or credit any overpayment) to Account No. 50-

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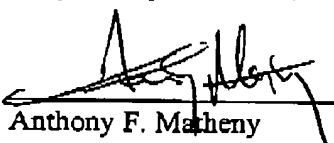
0897, Order No. 86821/AFM. Reconsideration of this application is respectfully requested.

As noted above in the Certificate of Mailing, this Request is being filed within one day of Applicant receiving the Notice of Abandonment. In light of the fact that the issuance of the Notice of Abandonment is in error, and not the fault of Applicant, Applicant respectfully requests that all allowable patent term adjustments be made in its favor.

In view of the above remarks, Applicant respectfully requests that the holding of abandonment be withdrawn, that the Amendment and a Fifth Supplemental Information Disclosure Statement Pursuant to 37 C.F.R. §§ 1.97 and 1.98 identified in Exhibit 2 be entered and made of record, and, in light of the papers identified in Exhibit 2, that a notice of allowance be issued with respect to claims 1-23. In order to expedite the examination of this application, Applicant requests the Examiner to contact the undersigned at (713) 220-4168 to discuss any matters that can be resolved by telephone.

Respectfully submitted,

Date: October 22, 2003

  
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